

**REMARKS**

Claims 1-18 are pending. Claims 1-18 are rejected.

Claims 1-3, 5, 7, 10 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by McMillin et al (U.S. Pat. No. 5,835,334).

Claims 4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over McMillin.

Claims 8, 9, and 11-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over McMillin in view of Beinglass et al (U.S. Pat. No. 5,645, 646).

Applicant hereby amends claims 1, 8 and 9 and respectfully requests reconsideration. No new matter is added, ample structural, functional and benefit/advantage support being found in the original specification at page 7, line 5 through page 9, line 5 and page 12, line 24 through page 13, line 12.

**CLAIM REJECTIONS - 35 USC § 102**

Claims 1-3, 5, 7, 10 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by McMillin.

**CLAIM REJECTIONS - 35 USC § 103**

Claims 4 and 6 are rejected under 35 U.S.C. 103(a) as being obvious over McMillin.

Claims 8, 9, and 11-17 are rejected under 35 U.S.C. 103(a) as being obvious over McMillin in view of Beinglass.

**FINALITY OF REJECTION IS IMPROPER**

Reconsideration and withdrawal of the finality of the Examiner's rejection of all claims is requested.

The finality of the latest Office action is improper and should be withdrawn. The Examiner in the second Office action has withdrawn the Deguchi patent as prior art in favor of "newly cited reference to Beinglass et al (U.S. Pat. 5,645,646)." Office action at page 5. The Examiner states that "applicant's amendment necessitated the new grounds for rejection", which is clearly not true. This is because two of the claims—dependent claims 8 and 9-- rejected on the basis of the newly cited reference to Beinglass *appear exactly as they were originally filed*. Accordingly, the fact is the Examiner simply has withdrawn his original rejection in favor of what he now believes to be a more defensible rejection based

upon prior art that was available to him when the application was originally taken up for examination. *It was not applicants' amendment but instead was the Examiner's oversight that led to the requirement of a second Office action and it is improper for the Examiner to make such a second Office action final.*

The fact that new claims were presented in response to the first Office action does not detract from the independent fact that the Examiner simply changed his position regarding which prior art to cite against original claims 8 and 9. This is especially true, considering that added dependent claims 10-18 are nearly verbatim recitations of originally presented dependent claims 2-8, which clearly would have required no further prior art search had the original prior art search and study been thorough as required by the MPEP and the applicable regulations. See 37 C.F.R. § 1.104(a).

Applicant points out to the Examiner that there was also confusion in regard to the first Office action in which the Examiner misidentified the primary McMillan reference by its incorrect number as U.S. Patent No. 5,382,311 instead of U.S. Patent No. 5,835,334. This earlier error on the part of the Examiner already has cost applicants extra time and trouble in confusion of prosecuting his application to date.

In summary, in the interest of fairness and in consideration of the Examiner's inadvertence, applicants respectfully request that the second Office action be amended to reflect that it is *not* Final, thereby relaxing the shortened period for response under the applicable rules and thereby giving applicants full and fair consideration on the merits of their claimed invention.

#### AMENDMENTS OVERCOME PRIOR ART REJECTIONS

Notwithstanding the above, applicants hereby amend claims 1, 8 and 9 more definitely and distinctly to claim their invention and to overcome the rejections. Specifically, claim 1 is amended to feature the conforming upper heating surface of the heater and the lower surface of the ceramic plate that is supported thereby "but not fastened thereto", the plate including an upper object supporting surface for convection heating thereof from the heater and the plate being easily placed on and removed from the upper heating surface of the heater. This combination of features—which facilitates replacement of the plate to meet a variety of applications and which prevents undesirable corrosion of the heater itself—is not taught by the known prior art.

McMillin teaches the use of cumbersome and time-consuming threaded fasteners and the removal of a plate (having, moreover, a *non-planar* lower surface) undesirably to expose

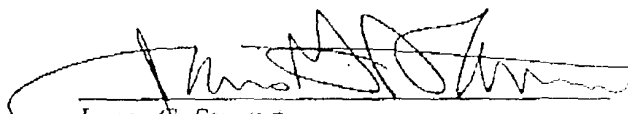
surface heater elements. Newly cited Beinglass teaches no such conforming upper and lower planar surfaces of a heater and an easily placed and removed ceramic plate for supporting an object. Accordingly, amended claim 1 and claims 2-8 depending therefrom are allowable.

Amended claim 9 recites a ceramic plate "simply detachably placed" on a heating surface of a heater "without being fastened thereto", and defining a supporting surface for supporting an object of a film forming process, the heater and ceramic plate being placed in turn within a process chamber defined by a process vessel. For the reasons stated above respecting amended claim 1, applicants submit that amended claim 9 and claims 10-18 depending therefrom are allowable. There is no suggestion in either McMillin or Beinglass of a film-forming device including a heater and detachable plate *not fastened thereto* capable simply and conveniently of conducting heat from the heater to a film forming process object supported on the "simply detachable" plate.

For the foregoing reasons, reconsideration and allowance of claims 1-18 of the application as amended is solicited. The Examiner is encouraged to telephone the undersigned at (503) 222-3613 if it appears that an interview would be helpful in advancing the case.

Respectfully submitted,

MARGER JOHNSON & McCOLLOM, P.C.



James G. Stewart  
Reg. No. 32,496

MARGER JOHNSON & McCOLLOM  
1030 SW Morrison Street  
Portland, OR 97205  
(503) 222-3613

**VERSION WITH MARKINGS TO SHOW CHANGES MADE**

1. (Amended) A heater device, comprising:
  - a heater defining a substantially horizontal planar upper heating surface; and
  - a [detachable] ceramic plate [which is placed on] having a substantially horizontal planar lower surface conforming to and supported by said heating surface [so as to] but not fastened thereto, the ceramic plate substantially entirely [cover] covering said upper heating surface, [and in turn defines a] said ceramic plate including an upper supporting surface for supporting an object to be heated by heat conduction through said ceramic plate from said heater to such an object,  
whereby said ceramic plate can be easily placed on and removed from said upper heating surface of said heater.
8. (Amended) A heater device according to claim 1, wherein said ceramic plate further comprises an annular low wall surrounding said upper supporting surface.
9. (Amended) A film forming device, comprising:
  - a process vessel defining a process chamber;
  - a heater defining a heating surface, [and placed] said heater being placed in said process chamber; and
  - a ceramic plate [which is] simply detachably placed on said heating surface of said heater without being fastened thereto so as to substantially entirely cover said heating surface and defining a supporting surface for supporting an object of a film forming process.